

NUUANU RESIDENTS SCORE POINT IN PROTEST AGAINST CONTRACT

Sen. Judd at End of Hearing Declares Agreement Is Not a Proper One and Suggests Recourse

Presenting their arguments before the select committee of Oahu senators maintaining that the contract entered into by the board of public works to permit the Hawaiian Electric company to divert a part of the water from Nuuanu Valley for its plant is unfair and possibly invalid, residents of the district were heard last night in protest.

After a number of prominent men had spoken, resting their contentions on the invalidity of the contract, pointing out that it either was in substance a franchise or a special privilege, and that in either it could not stand the scrutiny of court, or upon the danger of a water shortage which threatens Nuuanu, Senator Judd rose and told the residents that proceedings for an injunction be commenced.

Coming to the senate still ill from a sickness which has caused his absence from that body for two days, Senator Coke, who introduced the resolution in the senate calling for this investigation, and his colleagues listened to the arguments and comments of Attorney Withington, Philip Javer, J. R. Galt, Supervisor Lester, A. L. Castle, E. Faxon Bishop, R. H. Trent and Marston Campbell, and in the end agreed with Senator Judd that the residents of Nuuanu had an adequate remedy at law, and that the senate committee could do nothing more than to advise them to proceed to court.

Though through the entire meeting the board of public works was criticized sharply, those who came expecting to hear the Hawaiian Electric company scored went away disappointed, for it was conceded by the speakers that the company was in no wise to blame and its part in the agreement was termed a "good piece of business, and one which should raise the salary of the officers." But the board of public works got what the electric company missed, and so vitrol-like were the criticism that Marston Campbell, at one time superintendent of the department, rose to exclaim:

"This is one thing I didn't do." During his speech, Judge Weaver succinctly sized-up the nature of the contract with these words:

"I believe this contract is a franchise if it is anything. It is asking

the use of the streets for private use. If we put it to the courts they would say it was an effort to make what really is a franchise into a simple contract; but that in essence it was a franchise nevertheless."

This was in line with the reasoning of Mr. Withington, who cited a number of cases where a private right had been granted in a public street for permanent use and had been construed by the courts to be an invalid grant.

"I am in sympathy with the needs of the company, and yet I do not believe we should be made to suffer a water shortage on its account. I do not believe in the methods of doing government business as exemplified by this contract," said Mr. Withington. "The government needs overhauling. I am absolutely amazed that this contract is believed by some to be legal. For it is well-established law that you can't give a private right in a public street except for temporary use, or unless the power has been delegated by the legislature."

Mr. Withington declared that the contract is either a special privilege or a franchise illegally granted in either case. He said if it is a franchise, only congress could grant it. Mr. Bishop said that though he had not obtained legal advice on the subject, he was certain that the agreement is not proper.

"It seems ridiculous that the government entered into such a contract to save a few hundred dollars a year to a wealthy corporation. It is establishing a precedent, and if it grants such a right to one company, it must grant a similar one to every other company applying. It is unfair. It isn't a square deal."

Joseph Little, superintendent of the water works, was present, and Senator Judd attempted to obtain from him an estimate of the amount of water it would take to supply a number of other utility companies, in event they should apply to tap the Nuuanu Valley water main, but Mr. Little was not in an estimating mood, and in his final answer he only allowed that it would take a good deal.

"I do not believe this is a proper contract," said Senator Judd at the conclusion of the hearing, "and I do not believe the residents of the district should be possibly deprived of water through the contract. However, the complainants have their remedy through the courts and there is nothing this committee can do."

During the hearing Mr. Trent presented a statement showing that even when the government was signing up

the contract, there was an order in force stopping irrigation in the Nuuanu district, showing that the water department knew of the shortage. A. L. Castle cited figures showing that during the fall of 1912 the rainfall in Nuuanu Valley averaged twenty to thirty inches a month less than in the preceding fall, and he argued from this that the water department should have known of the threatened shortage and refused to sign the contract allowing the electric company to take water through a four-inch pipe to use in its boilers.

NUUANU RESIDENTS RESENT LETTER BY THE GOVERNOR

Executive Chamber, Honolulu, Hawaii, April 15, 1913.

Mr. J. L. Fleming, Secretary Joint Meeting, Honolulu, T. H.

Sir:—I acknowledge the receipt of your letter of the 12th inst., transmitting a copy of the resolution passed at a joint meeting of several improvement clubs, relating to the Honolulu water works.

An investigation and ascertainment of the facts would doubtless have satisfied the meeting and avoided the adoption of conclusions based on assumption.

Respectfully yours,

W. F. FREAR, Governor of Hawaii.

The foregoing is Governor Frear's reply to the representations of the joint meeting of the Nuuanu and Alewa improvement clubs, in which the Prospect Street Club later concurred.

A member of the Nuuanu Club, in speaking of the communication this morning, said:

"One fact of which I have had 'ascertainment' is that the water works bureau positively refused me the enjoyment of a privilege for which I had paid in Nuuanu Valley. The ladies of the Outdoor Circle asked me if I would not clear a lot owned by me and plant grass on it. I complied with the request, paying for a water privilege on the lot. I planted the grass, but when I asked the water works people to allow me to use the privilege they absolutely refused to do so. At the same time they secretly contract with the Hawaiian Electric Company to furnish it with all the water it wants through its own private main."

Other members of the clubs mentioned are considerably worked up over the tone of the governor's letter. It is not improbable that there will be more meetings held on the matter.

When a man talks about his principles he usually means his prejudices.

TWO REPORTS ON AINAHAU BILL

The battle over Senator Lauka's measure for the acceptance of Aina-hau will be fought out on the floor of the house, either this afternoon or tomorrow. The bill will not carry the unanimous support of the public lands committee; it is understood, and from that body two reports are expected. Whether the majority of the committee favors the measure could not be learned from the members this morning.

The committee's two reports on the subject may be submitted to the house this afternoon. The decisions of the individual members were announced to Chairman Huddy yesterday afternoon and as a result the reports were said to be in preparation this morning. While there still appears to be a marked division of opinion among the representatives it is thought the adherents of the measure are gradually gaining strength, and that the poll of votes to pass it on second reading will show them in the ascendancy.

NOTHING DOING ON EXCHANGE

An absolute blank appears under the heading of session sales on today's stock exchange sheet. Sales between boards are featured with a cascade of Oahu declined a quarter point to 16, with lots of 30, 30, 25, 20 and 10 shares changing hands. Pioneer declined one-half point in a sale of 20 shares at 20. Hawaiian Commercial is steady at 31.75 for 5 shares.

SENATE GETS TO FINANCES

The report of the ways and means committee of the senate on the general appropriation bill will come before the senate the first of the week. This announcement was made by Senator Rice yesterday. He stated that the bill is being fast put in shape and will be ready to report on Monday or Tuesday.

This is the bill providing for the current expenses of the government during the next biennial period.

Mrs. Hoke Smith, wife of the senator from Georgia, is seriously ill, suffering from a general breakdown following an unusually vigorous social season.



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SUGAR PROTECTION COMMITTEE

THE FOLLOW-UP LETTER is the most effective piece of business or Campaign Literature. Will those who have written in behalf of Hawaii and Sugar write again, or secure new Printed Matter, and send it?

Literature in envelopes, ready for mailing, may be had at Benson, Smith & Co., Honolulu Drug Co., Hollister Drug Co., Chambers Drug Store, and each of the local banks.

Mails leave on the Ventura, Tomorrow, Saturday, 9 a.m.; Nippon Maru, April 22nd; Wilhelmina, April 23rd